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FM USMISSION GENEVA
TO SECSTATE WASHDC 7060

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STATE FOR IO-RHS, DRL-MLGA, L-HRR

E.O. 12958: N/A

TAGS: PHUM UNHRC

SUBJECT: COMMUNICATION FROM SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION

¶1. Mission has received a communication from the Special Rapporteur on freedom of religion or belief. This communication is number 47 on the Geneva 2008 Communications Log.

¶2. Begin text of letter. Excellency, I have the honor to address you in my capacity as Special Rapporteur on freedom of religion or belief pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 6/37.

In this connection, I would like to bring to your Government's attention information I have received concerning Mr. Lyle Moody, currently detained in Western New Mexico Correctional Facility, Grants.

According to the information received,

Since Mr. Lyle Moody, a practicing Muslim, was recently transferred from Lea County Correctional Facility (LCCF) in Hobbs to Western New Mexico Correctional Facility (WNMCF), he has been denied several religious practices by prison staff members. At WNMCF he has been prohibited from wearing the traditional Islamic white knit (kufi) cap, while other inmates are allowed to wear different kinds of caps in prison. The Islamic Jumah prayer services are not announced over WNMCF's loudspeakers on Fridays, whereas other religious services are. Mr. Moody reportedly did not face such restrictions on the right to practice his religion when he was in Lea County Correctional Facility.

While I do not wish to prejudge the accuracy of these allegations, I also like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the Universal Declaration on Human Rights as well as of the International Covenant on Civil and Political Rights.

According to para. 8 of General Comment 22 of the Human Rights Committee, persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint. Furthermore, the Standard Minimum Rules for the Treatment of Prisoners provides that "(s)o far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination" (rule 42).

I urge your Government to take all necessary measures to guarantee that the rights and freedoms of the aforementioned persons are respected and that accountability of any person guilty of the alleged violations is ensured. I also request that your Government adopts effective measures to prevent the recurrence of these acts.

It is my responsibility under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. Since I am expected to report on these cases to the Council, I would be grateful for your cooperation and your observance on the following matters:

1. Are the facts alleged in the above summary of the case accurate?

2. Has a complaint been lodged?

3. Please provide the text of the New Mexico Corrections Department policy on Religious Programs (CD-101301) and comment on its compliance with the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and Article 18 of the International Covenant on Civil and Political Rights.

I would appreciate a response within sixty days. I undertake to ensure that your Government's response to each of these questions is accurately reflected in the report I will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration. Asma Jahangir, Special Rapporteur on freedom of religion or belief. End text of letter.

TICHENOR

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